

Case 4:05-cv-00329-GKF-PJC Document 185-1 Filed 02/13/09 Page 1 of 4

02/06/2009 11:07:11 FAX (918) 592-0963 Robinett & Murphy

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TO: Gordon D. Todd
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FROM: Tracy W. Robinett

DATE: February 6, 2009

Total Pages 4
(Including Cover)

MESSAGE:

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Exhibit 14

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February 6, 2009

Via Hand Delivery

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Via Facsimile Only

Gordon D. Todd, Esq.
Sidley Austin, LLP
1501 K Street, N.W.
Washington, D.C. 20005

Re: *State of Oklahoma, et al. v. Tyson Foods, Inc., et al.*
United States District Court Northern District of Oklahoma
Case No. 4:05-cv-00329-GKF-PJC

Gentlemen:

As I advised Mr. Hixon in my letter dated February 5, I was retained by Consumer Logic, Inc. to assist it in connection with the Subpoena it received from Tyson Foods, Inc. on or about January 30. Consumer Logic has every intention to cooperate with Tyson Foods to the fullest extent possible so as not to interfere with its pending litigation. However, Consumer Logic asserts the following objections and concerns:

- **Ineffective Service.** Your Subpoena was hand-delivered to a receptionist at Consumer Logic on the afternoon of January 30. The receptionist served with the Subpoena is not an officer, director, manager or service agent of the corporation and so advised your process server. Your process server merely asked for the "manager

in charge". When advised that the President, Dan Jarrett, was not in the office, the Subpoena was left with the receptionist.

- **The Subpoena fails to allow a reasonable time for the production of the information.** Even assuming your Subpoena was properly served, five business days is not a reasonable time for a company the size of Consumer Logic to gather and produce over two years of work product. The time limit you impose is therefore in violation of Rule 45(c)(3)(A)(i).
- **The Subpoena has and is imposing an undue burden and expense on Consumer Logic.** As you are well aware, a party issuing a subpoena has the responsibility to take reasonable steps to avoid imposing an undue burden and expense on the recipient thereof. It appears that no effort was made to comply with this requirement. The broad and overlapping document requests in the Subpoena appear to require Consumer Logic to produce or account for every bit of information generated or received on the project in question which spanned over two years. The Subpoena has imposed an undue hardship on Consumer Logic in violation of Rule 45(c)(1).
- **The Subpoena requests information which Consumer Logic deems to be proprietary in nature.** The Subpoena specifically requests Consumer Logic's billing information generated or received in connection with the services in question. Consumer Logic's pricing and billing information is proprietary in nature and is therefore considered to be a trade secret pursuant to Rule 45(c)(3)(B)(i).

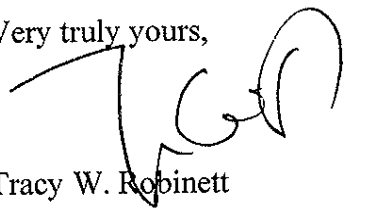
Additionally, the broad language of the Subpoena would seemingly require Consumer Logic to produce its profile sheets from which it solicits candidates for its focus groups and surveys. The data in the profile sheets provides Consumer Logic an edge over its competitors and is highly confidential and proprietary in nature. It, too, is considered to be a trade secret.

- **The Subpoena requests confidential research and development information.** The Subpoena specifically requests the identity of the participants in the focus groups and surveys in question. Further, much of the information responsive to the Subpoena contains personal information for the participants such as birthdates, telephone numbers, e-mail addresses, residential addresses and occupations. Prior to their agreement to participate in Consumer Logic's focus groups and surveys in question, the participants were assured that their identities and personal information would be maintained in strict confidence. In reliance on those assurances, the participants agreed to lend their assistance to Consumer Logic. Consumer Logic has an ethical obligation to honor its commitment of confidentiality to the participants.
- **Consumer Logic is contractually prohibited from producing the requested**

information. Consumer Logic is contractually obligated to Stratus Consulting, Inc. to keep the work product in question in the "strictest confidence". Prior to the production of any information, Stratus Consulting will need to be given an opportunity to waive such obligation or to object, in whole or in part, to the Subpoena.

I would welcome the opportunity to meet with you and conduct a good faith discussion as to how to resolve the foregoing objections and concerns.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Tracy W. Robinett', with a stylized, cursive script.

Tracy W. Robinett

TWR/nf

cc: Dan Jarrett (*via email*)